

### **REMARKS**

Claims 1-21 were previously pending in the present application. By this amendment, Claim 2 has been cancelled. Claims 12-18, 20 and 21 have been withdrawn from consideration. This Amendment addresses new grounds for rejecting Claims 1, 3-11 and 19 raised in the Examiner's Answer as well as the previous grounds for rejecting.

#### Inventor Declaration

As an initial matter, Applicant would like to thank Primary Examiner Diaz for the courtesy extended to Applicant's representative during the interview regarding the misfiling of the inventor declaration.

As discussed in the Interview, there was a misfiling of the Inventor Declaration for the 09/715,929 application. This misfiling occurred without deceptive intent, and is the result of an unintentional error in the Serial Number in the Inventor Declaration that corresponds to the '929 patent application. Because of this error, the wrong Declaration (i.e., the Declaration intended for Application No. 09/715,850) was associated with the '929 application, while the Declaration intended for the '929 application was associated with the '850 application.

In particular, as Applicant's representative noted, the Declaration which should have been filed in the '929 application, correctly identifies the title ("Methods And Systems For Processing Distributed Feedback") that appears on the specification filed for the '929 application, includes the same attorney docket number (AMAZON.054A) that appears on the first page of the specification of the '929 application, correctly names the inventors (Warren Adams, Kenneth L. Dinovo, Michael McDaniel, Ryan J. Snodgrass, Brian Robertson, Jennifer A. Jacobi) of the claims submitted in the '929 application, and includes the correct filing date (November 17, 2000). However, the last three digits of the serial number in the Declaration are incorrect, and inadvertently includes the last three digits of the '850 application. Hence, the Declaration intended for the present application ("Methods and Systems for Processing Distributed Feedback") was misfiled and placed in the '850 application file (where the specification includes the title "Methods and Systems for Distributing Information within a Dynamically Defined Community"). Similarly, the Inventor Declaration intended for the '850 application was misfiled and placed in the present application, even though the application title in the Declaration ("Methods and Systems for Distributing Information within a Dynamically Defined

Community”) and the attorney docket (AMAZON.053A) differ from that on the specification filed in the present application.

In other words, the ‘850 Declaration was erroneously filed in the ‘929 application, and the ‘929 Declaration was erroneously filed in the ‘850 application.

Therefore, Applicant requests that the Examiner correct the last 3 digits of the serial number in the attached Declaration (which had been originally been filed in the ‘850 application), and place it in the file of the present case. The last 3 digits of the serial number in the Declaration should read “929” instead of “850”.

A corresponding request was granted in the ‘929 application.

As discussed in the interview, MPEP 602.03 allows the Examiner to waive such minor errors in the Declaration. The relevant text is as follows.

*“When an application is otherwise ready for issue, an examiner with full signatory authority may waive the following minor deficiencies:*

*Minor deficiencies in the body of the oath or Declaration where the deficiencies are self-evidently cured in the rest of the oath or Declaration. In re Searles, 422 F.2d 431, 437, 164 USPQ 623, 628 (CCPA 1970).*

*If such a deficiency is waived, the examiner with full signatory authority should write in the margin of the Declaration or oath a notation why the deficiency was waived, indicate that the application is ready for issue, and provide his or her initials and the date.”*

Because the Declaration which Applicant requests be filed in the present application adequately identifies the present application (by title, attorney docket number, filing date, inventors, see MPEP 602 Section VI), Applicant believes that the minor error in the serial number is cured by the remainder of the Declaration.

Applicant therefore respectfully requests that the Examiner correct the Declaration.

Summary of claim amendments

The Examiner's Answer raised new grounds for rejecting Claims 1-11 and 19 (Examiner's Answer, page 2, line 18 to page 4, line 3; page 5, line 6 to page 6, line 17). In particular, the Examiner's Answer rejected Claims 1-11 and 19 under 35 USC § 101.

By the foregoing amendments, Applicants have amended the independent claims to ensure compliance with 35 U.S.C. § 101. These amendments are supported, but not limited, by at least the following portions of the originally-filed application: page 7, lines 11-13. Applicants therefore respectfully request the withdrawal of the rejection of Claims 1-11 and 19 under 35 USC § 101.

In addition, Claim 8 stands rejected under 35 USC § 112, second paragraph. By the foregoing amendments, Applicants have amended Claim 8 to recite "product review" rather than "providing review." Applicants therefore respectfully request the withdrawal of the rejection of Claim 8 under 35 USC § 112, second paragraph.

No new matter is being added by the foregoing amendments.

Art-based Rejections

Claims 1-11, and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over a collection of Epinions.com articles, including "Home, Netscape, Yahoo! Veterans Announce Epinions.com" (July 12, 1999), "Epinions.com Announces the Launch of its Free Online Shopping Guide Powered by Consumer Opinions" (September 8, 1999) (herein after, "Epinions Announces"), Barrett, "What's Your Epinion?" (September 13, 1999), Tedeschi, "Consumer Products are Being Reviewed on More Web Sites, Some Featuring Comments From Anyone With an Opinion" (October, 25, 1999), Wohl, "Uscr Review – Your Opinions Are Highly Valued on the Web" (November 8, 1999), collectively referred to as "Epinions" or the "Epinions articles", in view of a collection of eBay articles, including "eBay Launches the Most Comprehensive Trust and Safety Upgrades to the World's Largest Person-to-Person Trading Site" (January 15, 1999) (hereinafter "eBay Launches"), Lenatti, "Auction Mania" (July 1999), and eBay's Feedback Forum web site (hereinafter "eBay Forum"), archived on October 12, 1999 by web.archive.org, collectively referred to as "eBay" or the "eBay articles".

Applicants will treat the Epinions and eBay articles as prior art for purposes of this response, but reserve the right to later disqualify all or some of the articles as prior art.

The Claims are Patentably Distinct

As set forth below, Applicants have traversed the rejections of the pending claims under Section 103(a). The cited art relied on in the Final Examiner's Answer does not disclose or suggest all of the limitations of the pending claims, as amended. Nor does the Final Examiner's Answer explain why the differences between the pending claims and the cited art would have been obvious to one of ordinary skill in the art. "With regard to rejections under 35 U.S.C. § 103, the examiner must provide evidence which as a whole shows that the legal determination sought to be proved (i.e., the reference teachings establish a prima facie case of obviousness) is more probable than not." MPEP §2142. Accordingly, "the key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious." MPEP §2142; *see KSR International Co. v. Teleflex, Inc.*, 550 U.S. \_\_\_, (2007)).

"In determining the differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious." M.P.E.P. 2141.02 (Emphasis original, citations omitted)

Independent Claim 1

With respect to the rejection of Claim 1 the Examiner's Answer admits that *Epinions* fails to teach any of the following elements:

1. tallying votes received for a plurality of reviews authored by the first customer to provide a total tally, the total tally including votes received for the product review;
2. providing over the network an indication related to the vote tally for the product review in association with the product review;
3. assigning a designation to the first customer based on the total vote tally for the plurality of reviews authored by the first customer, or
4. displaying the designation in association with the product review.

Nonetheless, the Examiner's Answer alleges that it would have been obvious to modify *Epinions* with *eBay* to teach the recited claim because *eBay's* Feedback Forum provides a solution that is reasonably pertinent to the problem at hand in *Epinions.com*, i.e., promoting trust among the members of its online community, and the modification would further promote a

sense of trust among Epinions.com's members by more precisely conveying feedback regarding past experiences with a particular member of the Epinions.com community.

The Examiner's Answer further alleges that:

*A fair reading of eBay yields the general understanding that a tally of opinions or votes gives a good overview of opinions as a whole (page 20, lines 21-24)*

However, eBay teaches away from using the voting and tallying as taught by eBay with respect to the product reviews of Epinions. eBay explicitly teaches:

*"Negative comments can only be left by the winning high bidder and seller in an auction. Also, if a comment is not about an eBay transaction, it is not counted" (eBay's Feedback Forum, page 1, emphasis added).*

eBay's Feedback Forum (page 9) further recites the following question in the eBay: Help: Basics:FAQ : Feedback section:

*Q. Can any bidder leave feedback about a specific auction or just the winning bidder?*

The response to the foregoing question is very clear and direct:

*"A. Only the seller and successful bidder (one for a regular auction, several for a Dutch Auction) can leave transaction-related feedback about a specific buy or sell transaction." (Emphasis in the original).*

By way of further example, eBay's Feedback Forum (page 9) further recites the following question in the eBay: Help: Basics:FAQ : Feedback section:

*Q. Can I leave feedback on a trade if the reserve was not met?*

The response to the foregoing question is very clear and direct:

*A. No. In this instance, you can leave buy or sell feedback only if there is a successful bid above the reserve. (Emphasis added)*

Further, in view of the foregoing citations to eBay's Feedback Forum, it appears that only one feedback rating can be received regarding a buyer or seller per transaction. Thus, even if one were to modify Epinions with eBay, the result would only allow one feedback per review, which would defeat the goal of Epinions with respect to allowing a number of consumers to rate the usefulness of a given review.

Thus, because eBay teaches that if a comment is not about an eBay transaction, it is not counted, and because eBay further teaches that negative comments can only be left by the winning high bidder and seller in an auction, that only the seller and successful bidder can leave transaction-related feedback about a specific buy or sell transaction (and therefore feedback from anyone who is not the seller or successful bidder will not be counted in any tally), and that if a reserve is not met, a bidder cannot leave feedback on the trade, eBay teaches away from combining the disclosure of eBay addressing feedback regarding sellers and buyers with the disclosure of the Epinions.com articles to provide at least the following features, as recited by amended Claim 1:

*receiving, at the system, votes over the network from other customers indicating whether the product review was helpful, wherein the votes comprise votes indicating that the product review is helpful and votes indicating that the product review is not helpful;*  
*tallying, by the system, the votes received for the product review;*  
*providing via the system over the network an indication related to the vote tally for the product review in association with the product review;*  
*tallying, by the system, votes received for a plurality of reviews authored by the first customer to provide a total tally, the total tally including votes received for the product review;*  
*assigning, using the system, a designation to the first customer based on the total vote tally for the plurality of reviews authored by the first customer; and*  
*providing over the network for display the designation in association with the product review.*

Further, because the modification of Epinions with eBay would render the Epinions unsatisfactory for its intended purpose, the proposed modification is improper.

A prima facie case of obviousness can be rebutted if the applicant can show that the art in any material respect taught away from the claimed invention. In *re Haruna*, 249 F.3d 1327 (Fed. Cir. 2001). See also M.P.E.P. § 2143.01 for the proposition that a proposed modification cannot render the prior art device unsatisfactory for its intended purpose or change the principle of operation.

Applicants further traverse the allegation in the Examiner's Answer that a "fair reading of eBay yields the general understanding that a tally of opinions or votes gives a good overview of opinions as a whole." eBay is directed to solving a particular issue, that is, conducting buy and sell transactions using auctions and the rating of buyers by sellers and of sellers by buyers. Indeed, because of this focus, eBay discloses preventing rating buyers or sellers in the absence of

a successful bid and further discloses negative comments can only be left by a winning high bidder and seller in an auction. eBay does not appear to discuss or teach that a general understanding that a tally of opinions or votes gives a good overview of opinions as a whole.

In addition, the Examiner's Answer does not adequately explain how or why adding the functionality of eBay to Epinions would enable Epinions to assign a designation to the first customer based on the total vote tally for the plurality of reviews authored by the first customer or display the designation in association with a product review. Instead, the Examiner's Answer states that:

*a fair reading of the general teachings (e.g., the aspects of vote tallying and displaying designations of users based on a total vote tally) of eBay as opposed to very limited readings of the specific embodiments of eBay is what should be taken from the eBay references. ... therefore, applying a parallel analysis of the display of a designation of eBay's sellers based on each seller's respective total vote tally (of buyer satisfaction with each seller) would analogously apply to displaying a designation of a user and his/her product reviews based on a total vote tally corresponding to each user and/or set of product reviews.*

As previously discussed, eBay does not disclose general teachings of vote tallying, but is instead specifically directed to conducting buy and sell transactions using auctions and the rating and tallying of rating of buyers by sellers and of sellers by buyers. Further, as similarly discussed above, the differences in goals and processes of eBay and Epinions preclude the modifications proposed by the Examiner's Answer. Still further, the Examiner's Answer allegation that "applying a parallel analysis of the display of a designation of eBay's sellers based on each seller's respective total vote tally (of buyer satisfaction with each seller) would analogously apply to displaying a designation of a user and his/her product reviews based on a total vote tally corresponding to each user and/or set of product reviews," appears conclusory and does not provide clear articulation as to why it would be obvious to modify Epinions to assign a designation to the first customer based on the total vote tally for the plurality of reviews authored by the first customer and display the designation in association with a product review, as neither Epinions nor eBay discloses or suggests the foregoing features.

Still further, even if Epinions were modified to include the star icon of eBay, which indicates the number and types of comments received regarding a purchase/sale transaction, the combination would not assign a designation to a first customer based on the total vote tally for

the plurality of reviews authored by the first customer, and would not display the designation in association with a product review.

Further, Applicants respectfully submit that eBay is not analogous art. "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." In re Oetiker, 977 F.2d 1443 (Fed. Cir. 1992) "[I]t is necessary to consider 'the reality of the circumstances' – in other words, common sense – in deciding in which fields a person of ordinary skill would reasonably be expected to look for a solution to the problem facing the inventor." In re Oetiker, 977 F.2d 1443, (Fed. Cir. 1992).

Claim 1 relates to a method of evaluating a product review. eBay fails to even disclose a product review much less the rating of product reviews. eBay's Feedback Forum is clearly directed to the problem of rating sellers and buyers, apparently to the exclusion of other types of ratings ("negative comments can only be left by the winning high bidder and seller in an auction"; "***Only the seller and successful bidder ... can leave transaction-related feedback about a specific buy or sell transaction.***" (eBay's Feedback Forum (pages 1 and 9), emphasis in the original)). Hence, Applicants respectfully submit that the solution provided by eBay is not pertinent to the problem of Epinions.

Therefore the general scope of eBay, which is directed to the promotion of safe online trading using ratings of buyers by sellers and the ratings of sellers by buyers with respect to eBay transactions, is outside the pertinent field of endeavor, and is not relevant to the particular problem of evaluating product reviews. Applicants therefore traverse the allegation in the Examiner's Answer that eBay's Feedback Forum provides a solution that is reasonably pertinent to the problem at hand in Epinions. Applicants respectfully submit that a person of ordinary skill at the time the invention was made would not reasonably be expected to look to eBay for a solution to the problem of evaluating a product review.

For at least the foregoing reasons, Applicants traverse the rejection of Claim 1.

#### Dependent Claim 3

Because Claim 3 depends from Claim 1, the rejection of Claim 3 is improper for the reasons set forth above for Claim 1.



The rejection of Claim 3 is additionally improper because the Epinions articles and eBay do not teach or suggest the elements added by Claim 3, namely that with respect to product review votes, that the helpful product review votes are weighted differently than non-helpful product review votes. The Examiner's Answer relies on eBay to provide the missing elements, and alleges that it would be obvious to modify Epinions.com to weight helpful votes differently than non-helpful votes (as taught by eBay).

As noted in Applicants Appeal Brief, eBay does not even disclose "helpful votes" or "non-helpful votes", much less "helpful votes" or "non-helpful votes" regarding a product review. Instead, eBay discloses that a buyer or seller receives a score (+1, -1, 0) depending on a comment (positive, negative, neutral) regarding an eBay transaction left about the buyer or seller by another eBay user. Thus, even if Epinions was modified to include the scoring of eBay, the result would not weight helpful votes differently than non-helpful votes.

Nonetheless, the Examiner's Answer alleges:

*For the reasons discussed above, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Epinions.com to weight helpful votes differently than non-helpful votes (as taught by eBay) in order to further promote a sense of trust among Epinions.com's members by more precisely conveying feedback regarding past experiences with a particular member of the Epinions.com community. (Examiner's Answer, page 10)*

*Appellant again focuses on the preferred embodiments of eBay without taking into account the fair teachings of eBay as a whole. As explained above in the arguments and in the art rejection, both eBay and Epinion.com rely on establishing trust within their online communities. The functionality of eBay parallels much of that of Epinions.com; therefore, for the reasons already presented in the art rejection and in the arguments above, the Examiner submits that advantageous features of eBay that enhance eBay functionality, especially eBay functionality paralleling functionality of Epinions.com would have been obvious to apply to Epinions.com's parallel functionality to reap similar benefits in Epinions as well. (Examiner's Answer, page 22).*

As similarly discussed above, eBay does not disclose general teachings of vote tallying or vote weighting, but is instead specifically directed to conducting buy and sell transactions using auctions and the rating and tallying of rating of buyers by sellers and of sellers by buyers. Further, as similarly discussed above, the differences in goals and processes of eBay and Epinions preclude the modifications proposed by the Examiner's Answer. Still further, the Examiner's Answer statement that "the Examiner submits that advantageous features of eBay

that enhance eBay functionality, especially eBay functionality paralleling functionality of Epinions.com would have been obvious to apply to Epinions.com's parallel functionality to reap similar benefits in Epinions as well," appears conclusory and does not provide clear articulation as to why it would be obvious to modify Epinions.

Still further, the Examiner's Action has failed to explain how such modification would "further promote a sense of trust among Epinions.com's members by more precisely conveying feedback regarding past experiences with a particular member of the Epinions.com community", as alleged by the Examiner's Answer.

#### Dependent Claim 4

Because Claim 4 depends from Claim 1, the rejection of Claim 4 is improper for the reasons set forth above for Claim 1.

Additionally, the rejection of Claim 4 is improper because the Epinions articles and eBay do not teach or suggest the elements added by Claim 4, namely "displaying a ranking in association with a plurality of the first customer's reviews, wherein the ranking is based at least in part on the vote tally." While the Examiner's Answer admits that neither Epinions nor eBay discloses the foregoing elements, the Examiner's Answer asserts that "eBay does however display a star icon corresponding to an overall feedback rating, which is based on a tally of helpful and unhelpful votes" (Examiner's Answer, Page 11).

However, the Examiner's Answer appears to have inadvertently mischaracterized eBay. As discussed above with respect to Claim 3, eBay does not even disclose "helpful votes" or "non-helpful votes", much less "helpful votes" or "non-helpful votes" regarding a product review. Instead, eBay discloses that a buyer or seller receives a score depending on a comment left about the buyer or seller by another eBay user. Thus, even if Epinions was modified to include the scoring of eBay, the result would not display a ranking in association with a plurality of the first customer's reviews, wherein the ranking is based at least in part on the vote tally.

Still further, the Examiner's Answer asserts that Epinions.com and eBay members are effectively competing against one another to become more featured reviewers or gain a more stellar reputation, and that it would have been obvious to modify the Epinions.com-eBay combination to perform the steps of displaying a ranking in association with a plurality of a

customer's reviews. In particular, the Examiner's Answer cites eBay's Feedback Forum (page 1):

*"The more positive feedback you receive, the more stellar your reputation becomes!"*

However, while the foregoing citation discloses that a reputation improves with more positive feedback, the citation makes no reference to competition with others. eBay does not appear to state or imply that members should compete with respect to their reputations. Indeed, rather than encouraging competition with respect to reputation, eBay discloses encouraging the eBay community "to think that basically 99 percent of the people out there are doing the right thing". (Auction Mania, ¶ 40). Therefore, instead of calculating or displaying a ranking, eBay discloses providing ratings, which is simply the sum of points for positive, neutral, and negative comments.

Because, neither eBay nor Epinions disclose competitions between reviewers, sellers, or buyers with respect to ratings, and further, because neither eBay nor Epinions disclose rankings, the Examiner's Answer has failed to clearly articulate a reason to modify the Epinions with eBay to provide the claimed invention.

#### Dependent Claim 5

Because Claim 5 depends from Claim 4, the rejection of Claim 5 is improper for the reasons set forth above for Claim 4. In addition, the rejection of Claim 5 is improper because neither Epinions nor eBay teach or suggest the elements added by Claim 5, namely "wherein the ranking is determined by the number of helpful and unhelpful votes received for one or more of the first customer's reviews." As discussed above with respect to Claim 4, because, neither eBay nor Epinions disclose competitions between reviewers, sellers, or buyers with respect to ratings, and further, because neither eBay nor Epinions disclose rankings of buyers, sellers, or reviewers, the Examiner's Answer has failed to clearly articulate a reason to modify the Epinions with eBay to provide the claimed invention.

#### Dependent Claim 6

Because Claim 6 depends from Claim 4, the rejection of Claim 6 is improper for the reasons set forth above for Claim 4. In addition, as discussed above with respect to Claim 4, because, neither eBay nor Epinions disclose competitions between reviewers, sellers, or buyers with respect to ratings, and further, because neither eBay nor Epinions disclose rankings of

buyers, sellers, or reviewers, the Examiner's Answer has failed to clearly articulate a reason to modify the Epinions with eBay to reward a customer at least partly in response to the customer achieving a first ranking.

While the Examiner's Answer states that the attainment of a "Shooting Star" would effectively denote a highest possible ranking, Applicants note that the "Shooting Star" designation of eBay is simply a calculation based on comments, and is not provided at least partly in response to the customer achieving a first ranking relative to other customers.

Dependent Claim 7

Because Claim 7 depends from Claim 1, the rejection of Claim 7 is improper for the reasons set forth above for Claim 1.

Additionally, the rejection of Claim 7 is improper because neither Epinions nor eBay teach or suggest the elements added by Claim 7, namely "displaying the designation in association with a plurality of reviews authored by the first customer."

Applicants note that eBay does not teach or suggest product reviews, rating product reviews, or providing a customer with designation based on product review ratings, let alone displaying such a designation in association with a plurality of reviews.

Applicants further note that eBay does not even disclose displaying a color coded star with respect to a plurality of eBay purchases or sales. Indeed, eBay discloses having to access a Feedback Profile associated with a user by clicking on a number besides the user's User ID. (eBay's Feedback Forum, page 3). Further, even if eBay were modified to include the color coded star icon of eBay, which indicates that number and types of comments received regarding a purchase/sale transaction, the combination would not result in the display of a designation in association with a plurality of reviews authored by the first customer.

With respect to the rejection of Claim 7, the Examiner's Answer alleges that the "display of a color-coded star [as disclosed by eBay] is indicative of the step of displaying the designation in association with a plurality of reviews authored by the first customer." However, this allegation is conclusory in nature, and does not articulate an adequate rationale to further modify the combination of Epinions and eBay to display a ranking designation in association with a plurality of reviews authored by a customer.

Further, because eBay does not teach or suggest product reviews, rating product reviews, or providing a customer with designation based on product review ratings, let alone displaying such a designation in association with a plurality of reviews, there is no explicit or implicit suggestion or motivation to combine the eBay with Epinions.

#### Dependent Claim 8

Because Claim 8 depends from Claim 1, the rejection of Claim 8 is improper for the reasons set forth above for Claim 1.

Additionally, the rejection of Claim 8 is improper because Epinions and eBay completely fail to teach or suggest the elements added by Claim 8, namely “preventing a vote on the product review from the first customer from being included in the tally of votes received for the product review”. The Epinions articles and eBay do not even mention, and do not appear to recognize or be concerned with any problems associated with a customer who would unfairly skew review voting results in the customer’s favor.

The Examiner’s Answer appears to admit that both Epinions and eBay fail to disclose “preventing a vote on the providing review from the first customer from being included in the tally of votes received for the product review”. Nonetheless, the Examiner’s Answer alleges that it would have been obvious to one of ordinary skill in the art at the time of Applicant’s invention to adapt Epinions.com to prevent a vote on the product review from the first customer from being included in a tally of votes received for the product review in order to prevent the first customer from unfairly skewing the voting results in his/her favor while ignoring the general consensus of the Epinions community as a whole.

However, the Examiner’s Answer has failed to articulate an adequate rationale to modify the combination of Epinions with eBay to prevent a vote on the review from the first customer from being included in the tally of votes received for the product review. Merely because a customer is allowed to vote with respect to the customer’s own product review, does not cause the general consensus of the Epinions community as a whole to be ignored, as alleged by the Examiner’s Answer.

Further, Epinions does not even mention putting any limitations on voting, does not describe any mechanism for providing any limitations on voting, and appears unconcerned with putting any limitations on voting.

Dependent Claim 9

Because Claim 9 depends from Claim 1, the rejection of Claim 9 is improper for the reasons set forth above for Claim 1.

Additionally, the rejection of Claim 9 is improper because neither Epinions nor eBay teach or suggest the elements added by Claim 9, namely that “each of the other customers is prevented from voting more than once in relation to the product review”. The Epinions articles and eBay do not even mention, and do not appear to recognize or be concerned with any problems associated with providing product review votes or with skewing product review votes. Indeed, the Epinions articles do not even mention, and do not appear to recognize or be concerned with any problems associated with a customer who would unfairly skew voting results, much less a customer who would unfairly skew voting results by voting more than once. Further, because the Epinions articles do not even mention putting any limitations on voting, do not describe any mechanism for providing any limitations on voting, and appear unconcerned with putting any limitations on voting, there would be no motivation to modify the disclosure of the Epinions articles as proposed by the Examiner’s Answer.

Dependent Claim 11

Additionally, the rejection of Claim 11 is improper because neither Epinions nor eBay teach or suggest the elements added by Claim 11, namely “generating a profile page associated with the first customer, wherein the profile page includes the number of unhelpful votes the first customer has received.” While the Examiner’s Answer admits that the foregoing elements are not disclosed by Epinions, the Examiner’s Answer relies on eBay to supply the missing elements. However, as discussed above with respect to Claim 3, eBay does not even disclose “helpful votes” or “non-helpful votes”, much less “helpful votes” or “non-helpful votes” regarding a product review. Instead, eBay discloses that a buyer or seller receives a score depending on a comment left about the buyer or seller by another eBay user. Thus, even if Epinions was

modified to include the teachings of eBay, the result would not provide a profile page that includes the number of unhelpful votes the first customer has received.

Independent Claim 19

With respect to Claim 19, the Examiner's Answer asserts that Claim 19 recites limitations already addressed by the rejection of Claim 1 and that therefore the same rejection applies. As similarly discussed above with respect to Claim 1, eBay fails to supply the elements missing from Epinions. Epinions and eBay, separately or in combination, fail to teach or suggest tallying evaluations for a plurality of reviews from at least a first customer to provide a combined tally for the evaluations, or transmitting information related to the evaluations and the combined tally for display in association with the product review, as recited by Claim 19.

As similarly discussed with respect to Claim 1, eBay teaches away from using the voting and tallying as taught by eBay with respect to the product reviews of Epinions. eBay explicitly teaches:

*"Negative comments can only be left by the winning high bidder and seller in an auction. Also, if a comment is not about an eBay transaction, it is not counted"* (eBay's Feedback Forum, page 1, emphasis added).

eBay's Feedback Forum (page 9) further recites the following question in the eBay: Help: Basics:FAQ : Feedback section:

*Q. Can any bidder leave feedback about a specific auction or just the winning bidder?*

The response to the foregoing question is very clear and direct:

*"A. **Only the seller and successful bidder** (one for a regular auction, several for a Dutch Auction) can leave transaction-related feedback about a specific buy or sell transaction."* (Emphasis in the original).

By way of further example, eBay's Feedback Forum (page 9) further recites the following question in the eBay: Help: Basics:FAQ : Feedback section:

*Q. Can I leave feedback on a trade if the reserve was not met?*

*A. No. In this instance, you can leave buy or sell feedback only if there is a successful bid above the reserve.* (Emphasis added)

Further, in view of the foregoing citations to eBay's Feedback Forum, it appears that only one feedback rating can be received regarding a buyer or seller per transaction. Thus, even if one were to modify Epinions with eBay, the result would only allow one feedback per review, which would defeat the goal of Epinions with respect to allowing a number of consumers to rate the usefulness of a given review.

Thus, because eBay teaches that if a comment is not about an eBay transaction, it is not counted, and because eBay further teaches that negative comments can only be left by the winning high bidder and seller in an auction, that only the seller and successful bidder can leave transaction-related feedback about a specific buy or sell transaction (and therefore feedback from anyone who is not the seller or successful bidder will not be counted in any tally), and that if a reserve is not met, a bidder cannot leave feedback on the trade, eBay teaches away from combining the disclosure of eBay addressing feedback regarding sellers and buyers with the disclosure of the Epinions.com articles to provide any of the following features, as recited by amended Claim 19:

*receiving, at the system, from at least a portion of the plurality of customers evaluations indicating whether the product review was useful, wherein the evaluations comprise evaluations indicating that the product review is useful and evaluations indicating that the product review is not useful;*

*tallying, via the system, evaluations for a plurality of reviews from at least a first customer to provide a combined tally for the evaluations; and*

*transmitting, via the system, information related to the evaluations and the combined tally for display in association with the product review.*

Further, because the modification of Epinions with eBay would render the Epinions unsatisfactory for its intended purpose, the proposed modification is improper.

A prima facie case of obviousness can be rebutted if the applicant can show that the art in any material respect taught away from the claimed invention. In re Haruna, 249 F.3d 1327 (Fed. Cir. 2001). See also M.P.E.P. § 2143.01 for the proposition that a proposed modification cannot render the prior art device unsatisfactory for its intended purpose or change the principle of operation.



Further, as discussed above with respect to Claim 1, Applicants respectfully submit that eBay is not analogous art. Therefore, the rejection of Claim 19 is improper.

*No Disclaimers or Disavowals*

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

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**Filing Date:** November 17, 2000

Conclusion

In view of the foregoing, Applicants respectfully submit that independent Claims 1, 3-11 and 19, are patentably distinct over the cited art and are in condition for allowance. Applicant therefore respectfully requests allowance of Claims 1, 3-11 and 19.

Request for Interview

Pursuant to M.P.E.P. § 713.01, in order to expedite prosecution of this application, Applicant's undersigned attorney of record hereby formally requests a telephone interview with the Examiner as soon as the Examiner has considered the effect of the arguments presented above. Applicant's attorney can be reached at (310) 407-3461 or at the number listed below.


Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: February 18, 2009

By: \_\_\_\_\_

  
David N. Weiss  
Registration No. 41,371  
Attorney of Record  
Customer No. 20995  
(310) 551-3450

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